

1990

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 4) 1990

EXPLANATORY MEMORANDUM

**Circulated by Authority of the Minister for Finance and Urban
Services**

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The Motor Traffic Act 1936 (the Principal Act) regulates various motor traffic and motor vehicle matters such as vehicle registration, driving licences, road safety rules, parking rules, speed limits and insurance. Part XA of the Principal Act deals with seat belt and child restraint requirements. The child restraint requirements do not apply to children under one year of age.

The purpose of the Motor Traffic (Amendment) Bill (No. 4) 1990 is to require the use of child restraints for children under one year of age in motor vehicles. The amendment gives effect to a recommendation of the Australian Transport Advisory Council and brings the Principal Act into line with similar legislation in New South Wales, South Australia, Victoria and the Northern Territory in this regard.

An amount not exceeding \$5000 will be spent on a publicity campaign to alert the public to the effects of the new law prior to its commencement.

Details of the provisions of the Bill are included in the Attachment.

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Clause 1 provides that the Bill, once enacted, may be cited as the Motor Traffic (Amendment) Act (No. 4) 1990.

Clause 2 provides that the first three sections of the Act commence on the day on which the Act is notified in the Gazette. The remaining provisions of the Act commence three months after the Act is gazetted. The three month delayed commencement is to allow the section of the public that will be affected by the amendments time to obtain suitable child restraints to comply with the provisions of the Act.

Clause 3 defines the "Principal Act" to be the Motor Traffic Act 1936.

Clause 4 provides that section 164A of the Principal Act is amended so that a reference to a child in Part XA of the Act means a person who has not attained the age of eight years. The effect of this is that children under one year of age who were previously not covered by the child restraint provisions in the Act are now covered by those provisions.

Clause 5 inserts three new subsections into section 164D of the Principal Act.

New subsection 164D(3A) provides that it is an offence for the driver of a motor vehicle, (other than a motor cycle, a bus, or a vehicle that would exceed 4.50 tonnes when carrying a capacity load), to have a child under one year of age in a motor vehicle that is being driven, or has its engine running, on a public street without providing a child restraint suitable for use by that child. This subsection complements subsection 164D(2) of the Principal Act which imposes an obligation on the driver of a motor vehicle to restrain a child where the motor vehicle is fitted with a child restraint suitable for use by the child.

New subsection 164D(3B) provides that the seatbelt or child restraint provisions in subsections 164D(2), (3) and (3A) do not apply where the motor vehicle is:

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- (a) a taxi or private hire car;
- (b) was built before particular requirements to provide appropriate anchorage points for child restraints were included in the Australian Design Rules;
- (c) is registered in a State or Territory which does not have in force a corresponding law to the effect of the amendment; or
- (d) is a Commonwealth car with a specified number plate.

New subsection 164D(3C) removes any possible ambiguity as to the use of child restraints and seat belts by providing that nothing in subsection 164D(2) should be taken to mean that a child under the age of one year should be restrained by a seat belt.

Clause 6 deletes subsection 164E(6) of the Principal Act and substitutes a new subsection 164E(6) in recognition that defences need to have regard to the use of vehicles by children and young persons.

New paragraph 164E(6)(a) provides that all of the defences available under subsection 164E(3) are available to a person who has contravened section 164D in relation to a young person as if a reference to a defendant in those defences were a reference to a young person.

New paragraph 164E(6)(b) provides that all of the defences available under subsection 164E(3), except the defence in paragraph 164E(3)(d) which is irrelevant in the context of children, are available to a person who has contravened section 164D in relation to a child as if a reference to a defendant in those defences were a reference to a child.

New paragraph 164E(6)(c) provides that, in relation to an offence under subsection 164D(2), the defences in subsection 164E(3) are to apply as if a reference to a seat belt in that subsection were a reference to a seat belt or a child restraint.

Clause 7 inserts "Sub-section 164D(3A)" into Schedule 6 of the Principal Act the effect of which is that where an offence under subsection 164D(3A) is dealt with by the issue of a traffic infringement notice the penalty is \$40.